

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

EDDY H. PAULUS, II,

Plaintiff,

v.

Bertrand,

Defendant.

Case No. 1:21-cv-00094-JLT-GSA

ORDER SETTING SETTLEMENT  
CONFERENCE AND PARAMETERS AND  
SCHEDULING PRE-CONFERENCE  
TELEPHONIC DISCUSSION

**Settlement Statements due: January 17, 2023**  
**Pre-settlement Conference: January 20, 2023**  
**Settlement Conference: January 27, 2023**

Magistrate Judge Helena Barch-Kuchta will hold a settlement conference on **January 27, 2023, at 10:30 a.m.** via video teleconference. The Zoom settlement conference invitation will be distributed the week prior.<sup>1</sup> The court has reserved the entire day for this settlement conference and expects the parties will proceed with the settlement conference in good faith and attempt to resolve all or part of the case. If any party believes that the settlement conference will not be

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<sup>1</sup> Any difficulties concerning Zoom video conference, or connecting to the Zoom video conference, shall immediately be reported to Patricia Apodaca, Courtroom Deputy for the Hon. Helena Barch-Kuchta, United States Magistrate Judge, at papodaca@caed.uscourts.gov

1 productive, that party shall so inform the court as far in advance of the settlement conference as  
2 possible.

3 Unless otherwise permitted in advance by the court, the following individuals must attend  
4 the settlement conference in person: (1) all of the attorney(s) who will try the case; and (2)  
5 individuals with full authority to negotiate and settle the case, on any terms. *See Local Rule*  
6 270(f). ***Whether the named defendant's attendance will be required will be discussed at the***  
7 ***January 20, 2023, Pre-Settlement Telephone Conference.***

8 **No later than January 17, 2023**, each party must submit to Judge Barch-Kuchta's  
9 chambers at [hbkorders@caed.uscourts.gov](mailto:hbkorders@caed.uscourts.gov) or by mail to U.S. District Court, P.O. Box 575,  
10 Yosemite National Park, CA 95389, a settlement conference statement. These statements should  
11 neither be filed on the docket nor served on any other party.

12 In compliance with Local Rule 270(d)-(e), the settlement statements will be used  
13 exclusively for the undersigned to prepare for and conduct the settlement conference. They will  
14 not become part of the case file and will be shredded thereafter under Local Rule 270(e). If  
15 applicable, the statements should be marked "CONFIDENTIAL." *See Local Rule 270(d).*

16 The statements should not exceed ten (10) pages and should include:

17 (1) a brief recitation of the facts;

18 (2) a discussion of the strengths and weaknesses of the case, including the parties' relevant  
19 position on the factual and legal issues and brief review of the evidence to support the parties'  
20 factual position;

21 (3) an itemized estimate of the expected costs for further discovery, pretrial, and trial  
22 matters, in specific dollar terms;

23 (4) your best estimate of the probability that plaintiff will prevail should this case proceed  
24 to trial;

25 (5) your best estimate of the damages or relief plaintiff may recover should this case  
26 proceed to trial and plaintiff prevail (in specific dollar terms and/or injunctive relief, if  
27 applicable);

28 (6) a history of settlement discussions (including a listing of any current settlement offers

1 from any party, in specific dollar terms), a candid statement of your party's current position on  
2 settlement, including **the amount that you will give/accept to settle** (in specific dollar terms),  
3 and a statement of your expectations for settlement discussions;

4 (7) a list of the individuals who will be attending the settlement on the party's behalf,  
5 including names and, if appropriate, titles.

6 At the outset of the settlement conference, the undersigned may call upon the parties'  
7 counsel to give a brief (five-minute) opening presentation outlining the factual and legal  
8 highlights of their case before the parties break into separate caucuses. The undersigned reserves  
9 the right to dispense with the opening presentations of counsel if the undersigned determines that  
10 such presentations are not likely to be productive.

11 Notwithstanding the provisions of Federal Rule of Evidence 408, all statements made by  
12 the parties relating to the substance or merits of the case, whether written or oral, made for the  
13 first time during the settlement conference will be deemed to be confidential and shall not be  
14 admissible in evidence for any reason in the trial of the case, should the case not settle. This  
15 provision does not preclude admissibility in other contexts, such as pertaining to a motion for  
16 sanctions regarding the settlement conference.

17 Judge Barch-Kuchta will hold a short, pre-settlement conference telephone discussion on  
18 **January 20, 2023, at 10:30 a.m.** (dial-in number: 1-888-204-5984; passcode: 4446176). Only  
19 the lead attorney from each side<sup>2</sup> should participate. At Judge Barch-Kuchta's discretion, the  
20 joint telephonic discussion may be followed by private telephonic discussions between the judge  
21 and each party.

22 Dated: January 3, 2023

  
23 HELENA M. BARCH-KUCHTA  
24 UNITED STATES MAGISTRATE JUDGE

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28 <sup>2</sup> The Court expects that the attorneys participating in the telephone discussion will also participate in the  
settlement conference.